

**Introduced by Senator Pavley**

February 18, 2011

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An act to amend Section 739 of the Welfare and Institutions Code, relating to juveniles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 913, as introduced, Pavley. Juvenile offenders: medical care.

Under existing law, when a minor is taken into temporary custody and is in need of medical, surgical, dental, or other remedial care, the probation officer may authorize the performance of the medical, surgical, dental, or other remedial care, as specified. Existing law requires the probation officer to notify the minor's parent or guardian prior to the provision of the medical care.

This bill would additionally permit a probation officer to authorize a medical exam that complies with the regulations promulgated by the Corrections Standards Authority, without regard to the minor's need for medical care. The bill would also provide that the officer may, if he or she first makes an unspecified effort, authorize the performance of reasonable medical or dental care if the minor is in need of the care and upon the recommendation of the attending physician or dentist. This bill would also require the probation officer to make reasonable efforts to notify and obtain the consent of the minor's parent or guardian prior to the provision of the medical or dental care.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 739 of the Welfare and Institutions Code  
2 is amended to read:

3     739. (a) Whenever any person is taken into temporary custody  
4 under Article 15 (commencing with Section 625) ~~and, the probation~~  
5 *officer may authorize a medical exam that complies with the*  
6 *regulations promulgated by the Corrections Standards Authority.*  
7 *If the person is in need of medical, surgical, dental, or other*  
8 *remedial care, provided the probation officer first makes a*  
9 *reasonable effort,* the probation officer may, upon the  
10 recommendation of the attending physician and surgeon or, if the  
11 person needs dental care and there is an attending dentist, the  
12 attending dentist, authorize the performance of that medical,  
13 surgical, dental, or other remedial care. The probation officer shall  
14 *make reasonable efforts to notify and obtain the consent of the*  
15 *parent, guardian, or person standing in loco parentis of the person,*  
16 *if any, of the care found to be needed before the care is provided,*  
17 *and if the parent, guardian, or person standing in loco parentis*  
18 *objects, the care shall be given only upon order of the court in the*  
19 *exercise of its discretion.*

20     (b) Whenever it appears to the juvenile court that any person  
21 concerning whom a petition has been filed with the court is in need  
22 of medical, surgical, dental, or other remedial care, and that there  
23 is no parent, guardian, or person standing in loco parentis capable  
24 of authorizing or willing to authorize the remedial care or treatment  
25 for that person, the court, upon the written recommendation of a  
26 licensed physician and surgeon or, if the person needs dental care,  
27 a licensed dentist, and after due notice to the parent, guardian, or  
28 person standing in loco parentis, if any, may make an order  
29 authorizing the performance of the necessary medical, surgical,  
30 dental, or other remedial care for that person.

31     (c) ~~Whenever a ward of the juvenile court~~ *person* is placed by  
32 order of the *juvenile* court within the care and custody or under  
33 the supervision of the probation officer of the county in which the  
34 ~~ward~~ *person* resides and it appears to the court that there is no  
35 parent, guardian, or person standing in loco parentis capable of  
36 authorizing or willing to authorize medical, surgical, dental, or  
37 other remedial care or treatment for the ~~ward~~ *person*, the court  
38 may, after due notice to the parent, guardian, or person standing

1 in loco parentis, if any, order that the probation officer may  
2 authorize the medical, surgical, dental, or other remedial care for  
3 the ~~ward~~ *person* by licensed practitioners, as may from time to  
4 time appear necessary.

5 (d) Whenever it appears that a minor otherwise within  
6 subdivision (a), (b), or (c) requires immediate emergency medical,  
7 surgical, or other remedial care in an emergency situation, that  
8 care may be provided by a licensed physician and surgeon or, if  
9 the minor needs dental care in an emergency situation, by a licensed  
10 dentist, without a court order and upon authorization of a probation  
11 officer. If the minor needs foot or ankle care within the scope of  
12 practice of podiatric medicine, as defined in Section 2472 of the  
13 Business and Professions Code, a probation officer may authorize  
14 the care to be provided by a podiatrist after obtaining the advice  
15 and concurrence of a physician and surgeon. The probation officer  
16 shall make reasonable efforts to obtain the consent of, or to notify,  
17 the parent, guardian, or person standing in loco parentis prior to  
18 authorizing emergency medical, surgical, dental, or other remedial  
19 care. "Emergency situation," for the purposes of this subdivision  
20 means a minor requires immediate treatment for the alleviation of  
21 severe pain or an immediate diagnosis and treatment of an  
22 unforeseeable medical, surgical, dental, or other remedial condition  
23 or contagious disease which if not immediately diagnosed and  
24 treated, would lead to serious disability or death.

25 (e) In any case in which the court orders the performance of  
26 any medical, surgical, dental, or other remedial care pursuant to  
27 this section, the court may also make an order authorizing the  
28 release of information concerning that care to probation officers,  
29 parole officers, or any other qualified individuals or agencies caring  
30 for or acting in the interest and welfare of the minor under order,  
31 commitment, or approval of the court.

32 (f) Nothing in this section shall be construed as limiting the  
33 right of a parent, guardian, or person standing in loco parentis,  
34 who has not been deprived of the custody or control of the minor  
35 by order of the court, in providing any medical, surgical, dental,  
36 or other remedial treatment recognized or permitted under the laws  
37 of this state.

38 (g) The parent of any person described in this section may  
39 authorize the performance of medical, surgical, dental, or other  
40 remedial care provided for in this section notwithstanding his or

- 1 her age or marital status. In nonemergency situations the parent
- 2 authorizing the care shall notify the other parent prior to the
- 3 administration of the care.

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